

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JEFFREY D. CARNEVALI,

Plaintiff,

v.

PALMETTO WEST TRADING
COMPANY, LLC,

Defendant.

CASE NO. C05-345JLR

ORDER

This matter comes before the court on Defendant Palmetto West Trading Company, LLC's ("Palmetto") Motion to Dismiss, or, In the Alternative Transfer Venue. (Dkt. # 7). The court, being fully advised, finds as follows:

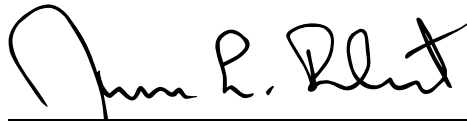
Federal Circuit law controls the issue of personal jurisdiction in this patent claim matter. 3D Sys., Inc. v. Aarotech Labs., Inc., 160 F.3d 1373 (Fed. Cir. 1998); IP Innovation, LLC v. RealNetworks, Inc., 310 F. Supp. 2d 1209, 1211 (W.D. Wash. 2004). The test for personal jurisdiction is set out in 3D Sys., 160 F.3d at 1378. Based on the record, the court finds that there is sufficient conduct to establish personal jurisdiction over Palmetto in the State of Washington, and the portion of Palmetto's motion seeking dismissal based on lack of personal jurisdiction is DENIED.

1 Under 28 U.S.C. § 1400 and 28 U.S.C. § 1391, venue is co-extensive with
2 personal jurisdiction. As the court has found personal jurisdiction, venue is also proper.
3 Therefore, the portion of Palmetto's motion seeking dismissal for improper venue is
4 DENIED.

5 The portion of Palmetto's motion to transfer venue is controlled by the law of the
6 appropriate regional circuit, or, in this instance, the Ninth Circuit. Storage Tech. Corp. v.
7 Cisco Sys., Inc., 329 F.3d 823, 836 (Fed. Cir. 2003). The Ninth Circuit test for motions
8 to transfer venue under 28 U.S.C. § 1404(a) is set out in Jones v. GNC Franchising, Inc.,
9 211 F.3d 495 (9th Cir. 2000). Applying the nine-factor Jones standard, the court finds
10 that Western Washington is the more appropriate forum for this action. The portion of
11 Palmetto's motion seeking transfer of this action to the District of South Carolina is
12 therefore DENIED. Ruling on the transfer motion is without prejudice to counsel for
13 Palmetto proposing various ways to reduce the cost and inconvenience of litigating this
14 matter in the Western District of Washington.

15 Dated this 25th day of May, 2005.

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JAMES L. ROBART
United States District Judge